# TARGETED ASSISTANCE PROGRAMS FOR TITLE I – A FUNDING

### A. LEGAL AUTHORITIES AND RESOURCES

In operating a targeted assistance program, administrators must be familiar with the applicable statue, regulations, and non-regulatory guidance. While nearly the entire Title I statue has applications in a targeted assistance program, one statutory section is specially dedicated to the requirements of this service model: section 1115. There are no Title I regulations on targeted assistance programs.

The non-regulatory on targeted assistance programs has not been updated by ED since the 1996 version applicable under the ISASD. Fortunately, the statutory requirements for targeted assistance programs did not change much in the 2001 reauthorization, so the 1996 guidance continues to be instructive. ED has indicated that it is in the process of updating this guidance but, as of January 2009, no new guidance has appeared.

## **B. SCHOOL ELIGIBILITY**

As long as a school receives a Title I allocation, it is eligible to operate a targeted assistance program. There are no additional eligibility requirements for operating a targeted assistance model. This is in contrast to school-wide program eligibility, which requires that a school have at least 40 percent poverty to be eligible to operate a school-wide program. If schools receives a Title I allocation and does not operate an approved school-wide program – because it does not meet the 40 percent poverty threshold, the LEA has not approved the school-wide plan or the school chooses not to offer a school-wide program – then the school must operate a targeted assistance program.

## C. STUDENT ELIGIBILITY FOR SERVICES

In a targeted assistance program, the population eligible for Title I services must be: (1) children not older than 21 who are entitled to free public education through grade 12; and (2) children who are not yet at the appropriate grade level for free public education.

In addition to this baseline requirement, Title I-eligible children are defined as those who are "failing, or most at risk of failing, to meet the state's challenging student academic achievement standards."

The school makes this determination based on "multiple, educationally related, objective criteria established by the LEA and supplemented by the school." "Multiple" means "more than one," so it would not be sufficient to base eligibility on the score from a single test. "educationally related" means that there must be an academic component to the criteria. "Objective" means that the criteria cannot be based on teacher judgment or other subjective means.

These standards do not apply, however, to children from preschool through the second grade. These younger students must be chosen solely on the basis of the judgment of the teacher, interviews with parents and other developmentally appropriate measures – pencil-and-paper tests are considered inappropriate for identifying young children.

Moreover, certain groups of children are automatically eligible for Title I services and need not be subjected to the multiple educationally related objective criteria.

- Any child who participated in Head Start, Even Start, the Early Reading First program or Title I preschool services at any time within the previous two years;
- Any child attending a community day program or living in a state or local institution for neglected or delinquent children;
- Any student served in the previous two years under the Migrant Education Program;
   and
- Any child who is homeless and attending any school served by the LEA.

Typically, districts and schools do not have sufficient resources to serve all eligible students. Alternatively, they may choose to provide more intensive services to a smaller population of students. In these cases, from the pool of eligible students, the school must then determine which children will actually participate in the Title I program, based on a determination of which children have the greatest need of special assistance. The guidance acknowledges that this selection process can be difficult, and recommends that school staff, in consultation with the LEA and based on a review of all the information available about the performance of eligible children, use their best professional judgment in making these choices. The school has significant discretion in the factors that may be considered – for instance, the school could concentrate resources on certain grades or in certain academic subjects, or it may decide that homeless or limited English proficient (LEP) students have greater needs than other eligible students.

The district is not permitted to use Title I funds to identify the pool of "eligible" students. For instance, Title I funds may not be used to test the entire student population to determine which children are "failing or at risk of failing the state standards." However, once the pool of eligible students is identified, then Title I funds may be used in selecting Title I participants, if necessary.

It is important to highlight that determining eligibility for services as an entirely separate and district process from determining a schools' population of low-income children in order to calculate its allocation. Selection for services is based entirely on low *achievement*, not low *income*. If a child of a wealthy family should happen to attend a Title I school and suffer reading difficulties, he or she would be eligible for Title I services on the same basis as any other child.

## D. COMPONENTS OF A TRAGETED ASSISTANCE PROGRAM

The statue establishes eight components that must be included in a targeted assistance program. In a targeted assistance program, the school must:

- 1. Use Title I resources to help participating children meet the state's challenging student academic achievement standards expected for all children;
- 2. Ensure that planning for students served under Title I is incorporated into existing school planning;
- 3. Use effective methods and instructional strategies that rely on scientifically based research and strengthen the core academic program of the schools and that
  - Give primary consideration to providing extended learning time, such as an extended school year, before- and after-school programs, and summer programs and opportunities;
  - Help provide an accelerated, high-quality curriculum, including applied learning;
     and
  - Minimize removing children from the regular classroom during regular school hours for instruction provided under Title I;
- 4. Coordinate with and support the regular education program, which may include services to assist preschool children in the transition from early childhood programs such as Head Start, Even Start, Early Reading First or state-run preschool programs to elementary school programs;
- 5. Provide instruction by "highly qualified" teachers;
- 6. Provide opportunities for professional development using Title I resources and, to the extent practicable, from other sources for teachers, principals, and Para-professionals including, if appropriate, pupil services personnel, parents, and other staff, who work with participating children in programs under this section or in the regular education

- program (Note that the school must devote sufficient resources to effectively carry out professional development activities, and the school is authorized to enter into a consortium with another school to carry out such activities.);
- 7. Provide strategies to increase parental involvement, such as family literacy services; and
- 8. Coordinate an integrated federal, state and local services and programs for violence prevention, nutrition, housing, Head Start, adult education, vocational and technical education, and job training.

Each participating school must assist the identified students in meeting the state's proficient and advanced levels of achievement by coordinating Title I funds with funds received from other sources.

In addition, the school providing targeted assistance must review, on an ongoing basis, the progress of participating children. If necessary, the school must provide additional assistance to enable such children to meet the challenging standards, such as an extended school year, before- and after-school programs, summer programs, and training for teachers on how to identify students requiring additional assistance and implement student achievement standards in the classroom.

## **E. SERVICE DELIVERY MODELS**

The design of the targeted assistance program can be tricky. The defining feature of a targeted assistance program is that Title I funds may only be used to benefit eligible Title I students and that benefit must be supplemental to what the child would have otherwise received in the regular classroom. Within these parameters, the school has some flexibility in how services may be delivered. Some popular approaches are discussed below, as well as the dilemma over allowing non-Title I children to benefit from Title I paid services.

## 1. PULL-OUT MODELS AND EXTENDED TIME

Prior to 1994, the most common program design model in a targeted assistance program was the "pull-out" approach. Under the pull-out system, Title I students were removed from the regular classroom for part of a school day and given supplementary remedial services. From an audit and compliance perspective, the pull-out approach was clearly the "cleanest" way to demonstrate that Title I funds were used to provide a benefit that was supplementary to the regular education program and that was provided only to Title I students. However, pull-out came under severe criticism because it stigmatized the students and often reduced the time they were exposed to regular instruction. Although the pullo-out services were supposed to be

more "intensive" and therefore supplementary, many have felt this to be a fiction, leading one Title I official to dub the model "legalized supplanting."

The pull-out approach is still used today, but much less widely than in the past. In 1994 under IASA, in reaction to criticism of the model, the statue required targeted assistance programs to give "primary consideration to providing extended learning time," such as an extended school year, before- and after-school, summer school programs, additional preschool services, and other opportunities. It required districts to minimize removing children from the regular classroom during regular school hours for Title I instruction, although it did not explicitly prohibit pull-out.

## 2. COLLABORATIVE TEACHING

Another service delivery model that raises numerous questions involves in-class models such as collaborative teaching, whereby the regular classroom teacher supervises a Title I teacher working with small groups of children, some of whom, at times, may be non-Title I students. Although the 1996 non-regulatory guidance provided rather loos examples of how collaborative teaching provided a supplementary benefit to Title I students, a 1997 guidance letter clarified the carefully tailored circumstances when collaborative teaching may be permissible:

[S]trategies such as collaborative teaching must be carefully designed and implemented to ensure that the educationally needy receive supplementary services. Merely providing a Title I-paid teacher for a regular classroom that has some Title I participants to team-teach with the regular teacher – resulting in, for example, a 15:1 student/teacher ratio instead of a 30:1 students/teach ratio – is not permissible. Although reduced student/teacher ratios might benefit both Title I and non-Title I participants, such a strategy does not provide supplemental services that are specifically designed to meet the Title I participants' educational needs. {Memorandum to State Title I Coordinators from May Jean LeTendre, Director, Compensatory Education Program (Feb. 27, 1997).}

Collaborative teaching was explicitly authorized under the 1994 IASA statue. Although there were very few statutory changes to the targeted assistance program language between the 1994 and the 2001 reauthorizations, NCLB omitted the explicit authorization of collaborative teacher. Because ED has not released non-regulatory guidance on targeted assistance programs since the 2001 reauthorization, it is impossible to know whether ED interprets Congress's omission as a disallowance of collaborative teaching. But grantee should be cautious in using this approach.

#### 3. INCIDENTAL BENEFIT

As explained above, in a targeted assistance program, Title I funds may only be used to provide services and benefits to the children identified as Title I-eligible.

While the general rule in a targeted assistance program is that only Title I children may be served, the guidance provides some leeway as part of the "incidental benefit" rule. Because of the instructional methods, setting, or time of a particular Title I service, it is not always reasonable or desirable for a school to serve only children who have been selected to participate in the Title I program. The guidance states that a school may provide, on an incidental basis, Title I services to children who have not been selected to participate in the Title I program. The incidental benefit to non-participating children is allowable only if the Title I program —

- Is designed to meet the special educational needs of the children who are failing, or most at risk of failing, to meet the state's challenging student achievement standards and is focused on those children, and
- The including of non-Title I children does not
  - a. Decrease the amount, duration, or quality of Part A services for Part A children;
  - b. Increase the cost of providing the services; or
  - c. Result in the exclusion of children who would otherwise receive Part A services.

Interestingly, the "incidental benefit" rule is not stated in the statute or regulations, but only in the non-regulatory guidance. Although non-regulatory guidance does not have the legal authority of statue or regulations, it reflects ED's best interpretation of these legal authorities.

# F. FISCAL RULES AND RECORD-KEEPING REQUIREMENTS

The strict rules about serving only Title I students in a targeted assistance program lead to sometimes arduous record-keeping requirements. Detailed programmatic and fiscal records must be maintained to document that Part A funds are spent on activities and services for only Part A participating students. The record-keeping requirements in a targeted assistance school are particularly complicated in two areas: (1) time distribution, and (2) supplement not supplant.

## 1. TIME DISTRIBUTION

"Time distribution" refers to the requirement that an employee paid from federal funds "allocate" – that is, distribute – his time equitably among the funding sources that pay hi9s salary. Detailed records must be maintained that reflect this distribution of effort, often referred to as time distribution records or Time/Effort documentation.

The rules that apply to time distribution and other cost allocation issues are found in OMB Circular A-897, *Cost Principles for State, Local, and Tribal Governments*. One general rule of Circular A-87 is that any federal cost must provide a benefit to the federal program that is proportionate to the relative benefits received. This means that federal funds can only pay for goods or services to the extent there is an assignable or chargeable benefit to the federal program. This allocable benefit must be adequate documented. For instance, if a targeted assistance program wants to set up a computer lab that will be used by the A Title I program 50 percent of the time, then Title I may only pay for 50 percent of the cost of the computer lab. The program would need to maintain records showing, at a minimum, the total cost of the computer lab, the amount paid by Title I and other sources, and the actual use of the computer lab by the Title I program and other programs.

Circular A-87 also has detailed rules on how federal funds may be used to pay salaries, and these rules have specific application in a targeted assistance program. The circular states that the salaries and wages of employees who work on federal program may be paid with federal funds as long as appropriate time distribution records are maintained. {It should be noted that time-distribution records for federal grants are above and beyond the normal payroll records used by any organization to document time and attendance.} The circular sets out very detailed and prescriptive standards for maintaining documentation identifying the federal programs on which an employee worked for the designated period. The employee's salary must ultimately be allocated on the basis of the distribution of effort reflected in the time distribution records.

The frequency of reporting depends on whether the employee works on a single "cost objective" or multiple "cost objectives." A cost objective generally refers to any federal program, mandated set-aside, statutory cap, or reservation of funds to which a grantee is required to track its funds. Each federal and non-federal program represents a separate cost objective. So, if an employee is working half her time on the Title I program and half on the unrestricted general funds program, those are separate cost objectives. If an employee works on two different federal programs – for example, Title I Part A and Title I Part C (Migrant) – these are also separate cost objectives. Even within one federal program, there may be multiple cost objectives. For instance, under Title I Part A, there are separate cost objectives for program services, administration, school improvement, and parental involvement.

If an employee works solely on a single federal award or cost objective, compliance with time distribution requirements is relatively simple. Such work must be supported with a periodic certification that indicates the employee worked solely on that program for the period covered by the certification. The certification must be prepared at least semi-annually (every six months). Charter Schools must have the certification completed on a monthly basis. The certification must be signed and dated by the employee and supervisory official having

firsthand knowledge of the work performed by the employee. For instance, if a teacher worked 100 percent of the time on the Title I program, then the employee would sign a certification every six months documenting that effort; according, the employee's salary may be paid 100 percent from the Title I program.

If an employee works on multiple cost objectives, the employee must maintain monthly, after-the-fact reports – termed Personnel Activity Reports, or PARs – that are signed and dated by the employee, detailing the actual breakdown of time among cost objectives. For instance, if an employee works 25 percent of her time on the Title I program and 75 percent on the unrestricted general program, she must submit monthly reports reflecting that breakdown; accordingly, the employee's salary must be paid 25 percent from Title I and 75 percent from nonfederal funding.

The level of detail required in PARs depends on how the employee's duties are actually distributed; federal officials have suggested that breaking down activities in increments as short as 15 minutes might be appropriate for an individual whose duties vary frequently during the day.

These time-distribution rules generally apply to any employee of a state or local education agency who is paid with federal funds, including an employee paid the Title I Part A funds working in a targeted assistance program. (The rules do not apply to contractors even if the contract is paid with federal funds.) Employees who work in school-wide programs are generally subject to less stringent time distribution rules.

Contrary to what many believe, time distribution rules do apply to teachers in a targeted assistance program who are paid with federal funds. Given that sometimes fragmented day faced by many teachers, is there any flexibility in how they maintain their time distribution records? Informal guidance from ED's Office of the chief Financial Officer (known as the "Montana Compact") offers some insight in how teacher may maintain such records.

9) Are classroom teachers or other instructional staff who are paid with federal funds required to keep time distribution records?

Generally, yes. Any employee paid with federal funds is required to have appropriate time distribution records or equivalent documentation. However, for teachers, paraprofessionals, and other instructional staff, the PAR or semi-annul certification format may be too rigid. For these employees, Circular A-87 standards would be met if the employee kept appropriate "equivalent documentation." To meet this requirement for equivalent documentation, instructional staff may use their lesson plans to confirm that their written schedules were followed, in lieu of PARS, if:

(1) after-the-fact notes are made on those plans to indicate the completion of each scheduled activity; (2) the lesson plans account for the total time the employee is compensated; (3) the lesson plans are prepared at least monthly and coincide with one or more pay periods; and (4) the completed lesson plans are signed by the employee and dated. If a district elects to use this method, it must retain the lesson plans as timekeeping records that are in addition to time and attendance.

Paraprofessionals may use their regular time sheets, in lieu of PARs as long as they; (a) reflect an after-the-fact distribution of their actual activity, (b) account for the total activity for which they are compensated, showing the hours of percentages for the programs they worked on, (c) are prepared at least monthly and coincide with one or more pay periods, and (d) are signed by the employee and dated.

In both "equivalent documentation" scenarios, frequent monitoring must ensure that this salary support is consistent with effort preformed. It is not sufficient to wait for or rely on A-133 [single] audit coverage.

In the absence of equivalent documentation, a teacher working on multiple cost objectives would need to maintain monthly PARs. A teacher working on a single cost objective could meet the requirements through a semi-annual certification (except for Charter schools), dedicated function code, or exception reporting, as described elsewhere in this guidance. {The Montana Compact was negotiated by federal officials and attendees at the 2006 annual conference of the Association of Education Federal Finance Administrators at Glacier National Park in Montana. It currently exists only as a "working paper" and has no official authority, although it presumably represents the unofficial viewpoint of the federal officials involved. Ken contributors to the paper were members of the law firm of Brustein & Manasevit, and a copy may be found at their Web site, http://www.bruman.com.}

## 2. SUPPLEMENT NOT SUPPLANT

Cynical observers have suggested that the so-called "supplement not supplant" requirement essentially dictates the service delivery model used in targeted assistance programs. Supplement not supplant requires that Title I funds be used only to supplement the funds that would, in the absence of such federal funds, be made available from nonfederal sources for the education of pupils participating in Title I Part A programs, and not to supplant such funds. In a targeted assistance school, this means that the specific Title I-funded services provided to

identified Title I students must be supplementary to the services otherwise provided with state and local funds.

While the legalese surrounding supplanting can be complex, the concept is relatively straightforward: What would have happened in the absence of the Title I funds>? If Title I funds were not available, would the district have still paid this teacher to provide services to these students? If the answer is yes, then the Title I funds are not truly supplemental to what would have happened otherwise, and a supplanting violation has occurred.

Sore argue that the supplanting prohibition might have been one of the primary motives for the widespread adoption of the pull-out strategy. While both the 1994 and 2001 laws encourage more integration, "push-in" approaches – such as having Title I specialists work in the classroom with certain children during small-group reading-aloud periods – the school still must be able to show that additional services are directed toward identified eligible beneficiaries. However, the statue makes clear that no LEA is required to provide Title I services through a particular instructional method or in a particular instructional setting to demonstrate the agency's compliance with the supplanting prohibition.

In limited circumstances, the Title I statue allows a schools district to avoid a supplanting violation by excluding certain funds from the supplanting analysis. As SEA or LEA may exclude supplemental state and local funds that were expended in any school or attendance area for programs that meet the "intent and purposes" of Title I, Part A. The intent of this exclusion is to encourage SEAs and LEAs to fund their own Title I-like compensatory education programs.

## G. FLEXIBILITY TO PARTIALLY INTEGRATE TITLE I

## 1. SIMULTANEOUS SERVICE

Title I students may be served simultaneously, and in the same educational setting, with non-eligible children who have similar educational needs. This rule discourages the pullout of Title I students and enables Title I students to remain in the regular classroom.

# 2. TITLE I - PAID PERSONNEL FLEXIBILITY

Historically, Title I – paid employees were generally prohibited from participating in non-Title I activities. However, this meant Title I teachers were treated differently than other teachers and could not participate in duties and opportunities shared by all the other teachers in the school.

So the 1994 law allowed targeted assistance personnel to participate in general professional development and school planning activities. For example, a Title I teachers may sit on a school

curriculum committee even though his or her work might benefit some children besides Title I children.

Likewise, Title I – paid employees in targeted assistance schools are permitted to assume "limited duties" that are assigned to other personnel who perform similar duties but who are not paid with funds for targeted assistance programs. However, the amount of time spent on these "limited duties" must not exceed the same proportion of total work time as spent by the other similar personnel. These limited duties include tasks beyond classroom instruction and extend to activities that do not benefit the targeted children, such as lunchroom or recess monitoring.

### 3. INCLUDING NON-TITLE I STAFF IN PROFESSIONAL DEVELOPMENT

All staff in a targeted assistance school may participate in professional development activities paid for with Title I funds provided that such participation will result in a school being better able to address the needs of its Title I students. In a guidance letter to Kristen Tosh Cowan, Es1q., dated Nov. 19, 2004, then-Assistant Secretary Raymond Simon indicated that both Title I-paid staff and non-Title I staff members may participate in Title I-paid staff development as long as the activity is focused on addressing the needs of Title I students and the staff works with Title I students at some point during the day. The only limitation is that the Title (-paid staff development may not include staff who do not serve any Title I students at some point during the school day.

## H. COMPREHENSIVE SERVICES

In the early years of Title I, the program often funded various health and nutritional needs exhibited by eligible children, including meals, medical check-ups or eyeglasses. However, with the widespread availability of other nutrition and health programs, such as the federal school lunch program and Medicaid, Title I should no longer be the prime funder for such basic needs.

A portion of targeted assistance funds under Title I may be used as a last resort for health, nutrition and other social services if eligible children are lacking these services, but only if these very specific criteria are met:

- 1. Eligible targeted children do not have available to them basic health, nutrition and other social services;
- 2. The school has engaged in a comprehensive needs assessment, if appropriate, and established a collaborative partnership with local service providers; AND
- 3. Funds are not reasonably available from other public or private sources.

Under these circumstances, Title I funds may be spent on needs including, but not limited to, basic medical equipment (such things as eyeglasses and hearing aids), compensation of a social services coordinator, and professional development necessary to assist teachers, pupil services personnel and parents in identifying and meeting the comprehensive needs of eligible children.

## I. FLEXIBILITY IN REVIEWING FOR SCHOOL IMPROVEMENT

Targeted assistance schools enjoy special flexibility to make determinations on Adequate Yearly Progress (AYP) and school improvement status based only on the performance of Title I-participating children.

The Title I statute states that, in a targeted assistance school, the district may choose to determine whether a school has made AYP on the basis of only those students in the school who are receiving Title I services, or are eligible for such services, as long as the students selected for services are those with the greatest need for special assistance. Of course, the law requires that all students in the school participate in the relevant state assessment; the special flexibility only applies to whose *scores* will be considered for accountability purposes.

The flexibility described herein is an option for a targeted assistance school; it is not a requirement.